

OLL#85-3477
6 NOV 1985

NOTE FOR: Director of Central Intelligence
FROM: Director, Office of Legislative Liaison
SUBJECT: Reward for Informants Providing Information
Leading to Arrests in Espionage Cases

1. Senator Stevens has introduced legislation that would authorize the Attorney General to pay an amount up to \$100,000 as a reward for information leading to the arrest or conviction of persons committing espionage or leading to the prevention or frustration of espionage activity. The Department of Justice has come out strongly against providing rewards in draft testimony on the bill because an offer of rewards could create a flood of spurious leads and could jeopardize ongoing counterintelligence operations if the person seeking the reward went public. The DOJ wants to immediately transmit this testimony to Congress to forestall passage of the bill. The Office of Management and Budget has requested the Agency's comments on the draft testimony.

2. We need to take a position on whether to support providing rewards to informants in espionage cases. The General Counsel feels this is a good idea. has taken the position that this may be a worthwhile idea, but it needs further study.

STAT

3. Should we support the idea of setting up a fund to provide rewards to informants in espionage cases?

YES _____ NO ☒

/s/Charles A. Briggs
Charles A. Briggs

Distribution:

Original - Addressee
1 - DDCI
1 - EXDIR
1 - ER
1 - D/OLL
1 - DD/OLL
1 - LEG Subject
1 - DMP Chrono
1 - OLL Chrono

OLL:DMP:rme (6 Nov 85)

Central Intelligence Agency



Washington, D.C. 20505

OGC-85-53320

Honorable Edwin J. Meese, III
Attorney General
Department of Justice
Washington, D.C. 20530

Dear Ed:

I have had an opportunity to read the draft testimony of one of your people in the Criminal Division concerning proposed legislation on the subject of rewards in espionage cases. I appreciate and share your concerns that rewards might be counterproductive in certain circumstances.

However, I do not believe that we should oppose legislation that would give us the discretionary ability to provide such rewards as may be determined to be appropriate. The proposed legislation would not mandate that rewards be given but would merely provide you with the authority to offer rewards in those cases where it would be useful or productive to do so.

I hope that you would agree that the authority might be helpful in appropriate cases and that we should not turn down the opportunity to place another technique at our disposal for dealing with the problem of espionage against the United States.

If you wish to discuss this matter further, I will be willing to meet with you at your convenience.

Sincerely,

William J. Casey
Director of Central Intelligence

OGC/ALD/WJC/SS/RBB/js/12 Nov 85

STAT

Distribution

Orig - Addressee
1 - DDCI
1 - ExDir
1 - ExReg
1 - OGC

Security & Terrorism
Dr AG Mark Richard to
be DOJ witness

Mr. Chairman and Members of the Committee:

I appreciate the opportunity to be here today to present the views of the Department of Justice on S.1654, the proposed amendments to the espionage laws. This bill is designed to provide awards to informers who expose espionage activities and to add forfeiture penalties against those individuals who are convicted of engaging in such activities. We greatly appreciate the Committee's willingness to hold this hearing to consider legislation which may be a major aid in our efforts to protect our national security interests.

Espionage in the United States appears to be motivated increasingly by a desire for profit as evidenced recently by the Walker espionage prosecutions and other cases. We believe that it is appropriate to take steps now that will make clear our resolve to eliminate the profits which serve as an incentive for individuals to engage in espionage activity. Because this bill provides the mechanism for reaching such profits, we support its purpose wholeheartedly. Nevertheless, we have some reservations concerning several aspects of S.1654, which we believe the Committee should seriously consider before recommending enactment.

First, S.1654 contains a provision which authorizes the Attorney General to reward individuals who provide information

031/85

15:01

NO. 007

EC

- 2 -

leading to an espionage conviction. The maximum award is \$100,000, and any award of \$10,000 or more requires approval at the highest levels of the Department of Justice. The Department of Justice appreciates the national security concerns which prompted the proposal to provide cash awards to informants in espionage cases. However, if the awards proposal is adopted, its effect would be to reward individuals for performing their simple duty as citizens, namely, to report to the proper authorities their knowledge concerning an effort to violate our espionage laws. Although it is sometimes prudent to provide a financial incentive to help combat a criminal activity which has its own financial incentives, we do not believe that this is the case with espionage violations. Monetary awards to informants in espionage cases easily could result in the compromising of sensitive foreign counterintelligence operations. These operations are often conducted with the assistance of confidential informants. The short term objective of most such investigations is not criminal prosecution but the acquisition of intelligence information. The prospect of a \$100,000 award for information leading to an espionage prosecution and conviction could prompt some informants to take action which would prevent this objective from being realized. Therefore, we respectfully oppose the provision for such awards on the grounds that, although they might be productive in some law enforcement areas, there is a greater risk that they will be counterproductive in combating espionage.

Second, S.1654 provides that the forfeited proceeds which a defendant convicted of espionage might realize from a production or publication relating to his espionage violation will be paid into the general fund of the Treasury of the United States. This provision of S.1654 is similar to 18 U.S.C. §3671 which is also designed to reach the indirect or collateral proceeds of crime derived from publication or production of a defendant's story. Title 18 U.S.C. §3671 applies to federal crimes which have resulted in physical harm to individual victims, and the proceeds forfeited are retained in a special Crime Victims Fund. There are no individual victims of espionage violations. The national security of the United States is the victim in espionage cases, and it is therefore appropriate that such indirect or collateral proceeds of espionage should be paid into the United States Treasury after forfeiture just as the same types of indirect proceeds forfeited under 18 U.S.C. §3671 are paid into a victims fund. However, we have noted that S.1654 is not explicit concerning the disposition of amounts realized by the United States from the forfeiture of property acquired directly from espionage or from property used in espionage. We would like to point out that under already existing law such amounts would be deposited in the Department of Justice Assets Forfeiture Fund pursuant to 28 U.S.C. §524(c)(4). We therefore suggest for the

sake of clarity that S.1654 include a new 18 U.S.C. §794(d)(5) which would specify that amounts realized from forfeitures under subsection (d) will be deposited in the Department of Justice Assets Forfeiture Fund in accordance with 28 U.S.C. §524(c)(4).

I would also mention that if the awards provisions is retained in S.1654, the Department of Justice would suggest that it be reconciled with the existing awards system contained in 28 U.S.C. §524(c). Pursuant to 28 U.S.C. §524(c)(1)(B), the Department of Justice Assets Forfeiture Fund is available to pay awards for information or assistance leading to forfeitures for drug and racketeering violations. Under 28 U.S.C. §524(c)(2) the maximum award is the lesser of \$150,000 or one-fourth of the amount realized by the United States from the property forfeited. The proposed awards scheme for espionage cases differs significantly from this existing statutory scheme for awards from the Department of Justice Assets Forfeiture Fund. The key inconsistencies between S.1654 and the existing awards scheme under 28 U.S.C. §524(c) are first, S.1654's provision for separately appropriated awards as opposed to awards being payed from the Assets Forfeiture Fund, and, second, S.1654's \$100,000 maximum award as opposed to the limitation based upon the amount realized from the forfeiture. If the awards provision is retained in S.1654, the Department of Justice would prefer that it be designed to conform to the existing awards framework in 28 U.S.C. §524(c).

Last, the Department of Justice wishes to point out that the currently proposed Money Laundering and Related Crimes Act of 1985 (S.1335) contains proposed legislation (18 U.S.C. §2322 and §2601) which provides for forfeiture of the knowingly possessed proceeds of any federal felony. S.1654's proposed forfeiture amendments to 18 U.S.C. §794 reach other property interests of the defendant in addition to proceeds of the violation, but the primary purpose appears to be the forfeiture of such proceeds. S.1335 appears to accomplish this already. Although we feel this partial overlap between the two bills is acceptable, we wish to reemphasize our interest in S.1335.

In closing, I wish once again to express my appreciation to this Committee for its interest in legislation aimed at the protection of our national security.

Mr. Chairman, that concludes my statement, and I would be happy to answer any questions the Committee may have.